IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1892 OF 2006

The State of Maharashtra
(On behalf of Nigadi Police Station, Pune, Dist.Pune) ..Applicant

Vs.

Nilesh Ambadas Kale and 7 ors. ..Respondents

Mr. P.A. Pol, APP for applicant-State.
Ms.Dimple Bhargava i/by Mrs. Revati Mohite-Dere for respondent nos.1 and 8.
Mr. S.V. Gavand for respondent nos.3 and 4.
Mr. K.S. Patil for respondent no.5.
Mr. V.V. Purvant for respondent nos.6 and 7.

CORAM: B.H. MARLAPALLE, J.

Date : September 21, 2007.

P.C.:

1. Heard the learned APP for applicant-State.

This is an application seeking leave to appeal under Section 378(3) of Cr.P.C. against the order of acquittal passed by the learned 15th Ad-hoc Additional Sessions Judge, Pune in Sessions Case No.46 of 2005.

2. As per the prosecution case, the complainant Anita Eknath Waghmare, resident of Shena Building, Yamuna Nagar, Nigdi, Pune had stated that her daughter Supriya, who was a student of 12th standard in the

Modern College, Pune and was appearing for F.Y.B.A. Examination, was staying with her and on 19/5/2004 at about 2.30 p.m. somebody gave bell of her house and when she opened the door, she found that three persons entered by saying that they had come there to repair cable. All these three persons were in their 20's and they allegedly kidnapped her daughter Supriya, aged about 18 years.

3. The prosecution had examined in all 13 witnesses, including the complainant as well as her daughter Supriya and after considering the evidence adduced, the learned 15th Ad-hoc Additional Sessions Judge was pleased to acquit all the eight accused. The trial court held that there was no evidence inspiring confidence in support of the prosecution case that on 19/5/2004 Supriya was abducted and it noted that the evidence of the star witnesses of the prosecution i.e. PW 1, PW 9 and PW 10 was not consistent. The trial court noted that one of the accused - Nilesh Kale was the next door neighbour of Supriya in the same building and he had apparently fallen in love with Supriya. In her depositions before the trial court, Supriya (PW 10) admitted that

on 2/5/2004 she had completed the age of 18 years and, therefore, she could not be stated to be a minor. It has also come in the evidence that Supriya had travelled with some of the accused persons from 2.30 p.m. to 12 mid-night in the car and the car had stopped at many places like Chakan and had gone right upto Jalgaon, thus provided sufficient opportunity to Supriya to alert or to escape from the custody of the accused, if, in fact, she was abducted. Even when the police made enquiry with her at Pimprud Fata she refused to give the telephone numbers of her parents and instead told the police that Nilesh used to follow her and was in love with her. Her relation PSI Bhujbal was never contacted by her and it appears when she recorded a complaint, PSI Bhujbal was present. Apparently, as was stated across the bar, Supriya is now married and settled happily and so is the case with accused - Nilesh.

4. The reasoning set out by the trial court in support of the order of acquittal does not require reconsideration by this court and hence leave to appeal is hereby refused and the application is rejected.

(B.H. Marlapalle,J.)